

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEBRASKA**

Nebraska Data Centers, LLC,)	CASE NO. 8:17-CV-_____
)	
Plaintiff,)	
)	
vs.)	COMPLAINT FOR DECLARATORY
)	JUDGMENT
Leo Khayet,)	
)	
Defendant.)	

COMES NOW the Plaintiff, Nebraska Data Centers, LLC (“Plaintiff”) and for its Complaint against Defendant Leo Khayet (“Defendant”), states and alleges as follows.

PARTIES

1. Plaintiff is a limited liability company organized under the laws of the state of Delaware, with its principal place of business 1623 Farnam Street, Omaha, Nebraska 68102. Plaintiff is authorized to transact business in the state of Nebraska. Neither Plaintiff nor any of its members are residents of, citizens of, or have a principal place of business in the State of Kansas.

2. Defendant is an individual and a citizen and resident of State of Kansas. Defendant's address is 13249 High Drive, Leawood, KS 66209.

JURISDICTION AND VENUE

3. This Court has diversity jurisdiction over the parties pursuant to 28 U.S.C. § 1332(a). The parties are citizens of different states and the amount in controversy exceeds \$75,000.00, exclusive of interest and costs.

4. Venue is proper in the District of Nebraska pursuant to 28 U.S.C. § 1391(b). A substantial part of the events giving rise to this lawsuit occurred in the State of Nebraska, where Plaintiff conducts and transacts business.

5. An actual controversy of a justiciable nature exists between Plaintiff and Defendant involving their rights and obligations under the agreement described herein, which controversy may be determined by the judgment of this Court.

BACKGROUND

6. On August 8, 2017, Plaintiff and Defendant entered into a Consulting Agreement (the “Agreement”). Plaintiff entered into the Agreement for purposes of having Defendant provide consulting services to Plaintiff. Under its terms, the terms of the agreement are to remain confidential. Plaintiff will file a true and accurate copy of the Agreement as a restricted document, pursuant to the Court's local rules. The Agreement is marked as Exhibit A and is incorporated herein by reference.

7. The Agreement provides a set of conditions that must be fulfilled prior to Defendant being entitled to compensation for any services performed under the Agreement. To date, the conditions required for Defendant to be compensated have not been fulfilled. Accordingly, Defendant is not entitled to any compensation under the Agreement.

8. Under Section 2a of the Agreement, the consideration that would be payable to Defendant in the event the conditions for compensation were met under the Agreement is in excess of \$75,000.00.

9. Prior to termination of the Agreement by Plaintiff, Defendant was not entitled to any payment under the Agreement.

10. Plaintiff has complied with all terms and conditions of the Agreement.

11. By letter dated October 4, 2017, Plaintiff terminated the Agreement. Plaintiff will file a true and accurate copy of the correspondence terminating the Agreement as a restricted document, pursuant to the Court’s local rules. This correspondence is marked as Exhibit B and is incorporated herein by reference.

12. On or about October 5, 2017, Defendant responded to Plaintiff's letter of termination (Exhibit B), disputing Plaintiff's termination and indicating that Defendant is entitled to compensation from Plaintiff.

COUNT I

DECLARATORY JUDGMENT

13. Plaintiff re-alleges and incorporates the allegations in paragraphs 1 through 11 of this Complaint as though fully set forth herein.

14. Pursuant to the Declaratory Judgment Act, 28 U.S.C. §§ 2201-2202, Plaintiff brings this matter before the Court for the purpose of declaring the rights, status, and other legal relations of the Plaintiff and Defendant under the terms of the Agreement.

15. Specifically, Plaintiff seeks a declaration that:

- (a) no amount is due or owing to Defendant under the Agreement;
- (b) Plaintiff has complied with all terms and conditions of the Agreement and has not breached any of the terms and conditions of the Agreement; and
- (c) the Agreement is terminated, except with respect to those terms and conditions which survive the termination of the Agreement.

16. Declaratory judgment is appropriate in this matter because there is an actual and justiciable controversy involving the rights and legal relations of the Plaintiff and the Defendant, and because the controversy is ripe for judicial determination.

WHEREFORE, on Count I of its Complaint, Plaintiff prays for a judgment against Defendant that:

- (a) no amount is due or owing to Plaintiff under the Agreement;
- (b) Plaintiff complied with all terms and conditions of the Agreement and has not breached any of the terms and conditions of the Agreement; and
- (c) the Agreement is terminated, except with respect to those terms and conditions which survive the termination of the Agreement; and
- (d) Any other further relief that the Court deems just and proper.

DEMAND FOR JURY TRIAL

Plaintiff demands a trial by jury on all issues so triable in the United States District Court for the District of Nebraska, in the Court's Omaha Division.

DATED this 5th day of October 2017.

Nebraska Data Center, LLC, Plaintiff

BY: /s/Robert W. Futhey

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EXHIBITS A AND B TO
PLAINTIFF'S COMPLAINT
HAVE BEEN FILED UNDER
A SEPARATE FILING
NUMBER AS RESTRICTED
DOCUMENTS.